

DOR  
6.155

DORN SCHUFFMAN, DEPARTMENT DIRECTOR

CHAPTER Human Resources	SUBCHAPTER Personnel Administration	EFFECTIVE DATE Dec. 1, 2005	NUMBER OF PAGES 3	PAGE NUMBER 1 of 3
SUBJECT Temporary Modified Duty		AUTHORITY 630.050 RSMo		HISTORY See Below
PERSON RESPONSIBLE Director, Office of Human Resources			Sunset Date: July 1, 2009	

**PURPOSE:** To set guidelines for temporary modified duty with the goal of reducing employee absences and commensurate costs.

**APPLICATION:** Applies to the entire department. Applies to work-related and non-work-related injuries and illness.

(1) As used in this Department Operating Regulation (DOR), and in facility policies, the following terms mean:

(A) "CARO", means the Central Accident Reporting Office of the Office of Administration.

(B) "FMLA", means the federal Family and Medical Leave Act.

(C) "Health Care Provider", any person licensed to diagnose and treat physical or mental conditions.

(D) "Regular Wages", for the purposes of this policy, regular wages shall mean the current base pay rate. It is comprised of the hours worked or paid leave and shall be pro-rated according to the hourly base pay rate. Base pay rate shall include related differentials as designated by the personnel advisory board if temporary modified duty is performed on the evening or night shift.

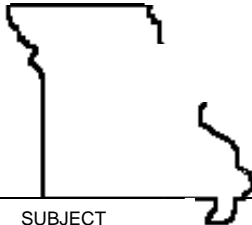

(E) "Temporary Modified Duty", a temporary work assignment that meets the needs of the facility and the employee during the employee's recovery after an injury or illness due to a work related injury or non-work related injury.

### **Non-Work Related Injury or Illness**

(2) When considering an employee for temporary modified duty due to a non-work related injury or illness, the appointing authority or designee shall comply with requirements of the Americans with Disabilities Act, Workers' Compensation, the Family Medical Leave Act, and all other applicable state and federal requirements.

(3) An employee who requests temporary modified duty for non-work related injury or illness shall provide written documentation from the Health Care Provider, including but not limited to restrictions resulting from the injury or illness and the anticipated duration of the employee's limitations. The appointing authority or designee may verify all medical conditions and may, at its own expense, request a second opinion.

(4) When determining whether an employee will be given temporary modified duty for a non-work related injury or illness, the appointing authority or designee shall consider the nature of the illness or injury, the anticipated duration of the employee's

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restrictions, recommendations of the Health Care Provider, second opinions, availability of temporary modified duty work assignments, and other relevant criteria.

(5) If an employee with a non-work related injury or illness and a written release to modified duty from a Health Care Provider refuses to accept a temporary modified duty assignment, the employee forfeits his/her rights to temporary modified duty provided that the facility has met the burden of a temporary modified duty assignment consistent with the limitations imposed by the Health Care Provider.

(6) For non-work related injury or illness a temporary modified duty assignment may be terminated at any time by the appointing authority or designee or the employee with written notification. If the temporary modified duty is terminated by the employee for reasons other than to return to work, the employee may use sick leave, annual leave, compensatory time or leave without pay for the absences.

(7) When an employee with a non-work related injury or illness has been released to return to work on a temporary modified duty assignment, the employee may choose not to accept the assignment and use sick leave, annual leave, compensatory leave or leave without pay for the absences.

(8) The Temporary Modified Duty program, for non-work related injuries/illnesses, is designed to be "TEMPORARY". A temporary modified duty assignment for a non-work injury/illness shall not exceed six weeks unless exceptions are approved by the appointing authority or designee, based on recommendations from the Health Care Provider and in compliance with the FMLA.

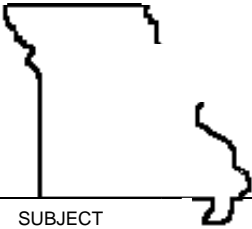
(9) At the request of the appointing authority or designee, the employee shall provide written statements from the Health Care Provider describing the employee's progress toward recovery.

### **Work Related Injury or Illness**

(10) When an employee is released to return to work from a work related injury or illness, the Health Care Provider shall identify any restrictions which the facility shall consider in making the modified duty assignment. The facility may adjust the employee's work schedule and/or location to meet the needs of the facility and the requirements of the modified duty assignment.

(11) The length of a modified duty status due to a work related injury/illness will be determined by CARO in conjunction with the Health Care Provider.

(12) The facility should communicate with CARO when there are questions about the length of the temporary modified duty or the restrictions imposed.



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## General

(13) If either a work related or non-work related illness or injury meets the criteria for protected absence under FMLA, the time spent in a temporary modified duty assignment may be considered part of the employee's 480 hours of leave protected under the Act. For the purpose of restoration to the same position, employees will be notified when temporary modified duty is protected by the FMLA and is counted towards the 480 hours, for restoration purposes.

(14) During any temporary modified duty assignment, the employee shall receive regular wages.

(15) Employees shall be required to perform the essential functions of their regular job assignments after completion of the modified duty assignment. See DOR 6.530 Essential Functions.

*History: Original DOR effective January 1, 1999. Sunset date extended effective July 1, 2002. Amendment effective February 1, 2004. Amendment effective December 1, 2005.*